

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-2, 5-6, 9 and 12-14 are pending in the application. Claims 1-2, 6, 12 and 14 are amended; and Claims 10-11 are canceled by the present amendment. Support for the amended claims can be found in the original specification, claims and drawings.¹ No new matter is added.

In the Official Action, Claim 2 was objected to because of a minor informality; and Claims 1-2, 5-6 and 9-14 were rejected under 35 U.S.C. §102(e) as anticipated by Hayama et al. (U.S. Pat. 7,006,484, herein Hayama).

Regarding the objection to Claim 2, this claim is amended to remove the informality noted in the Office Action. Accordingly, Applicants respectfully request that the rejection of Claim 2 be withdrawn.

Claims 1-2, 5-6 and 9-14 were rejected under 35 U.S.C. §102(e) as anticipated by Hayama. In response to this rejection, Applicants respectfully submit that amended independent Claims 1, 2, 6 and 12 recite novel features clearly not taught or rendered obvious by the applied references.

Independent Claim 1, for example, recites a mobile communication system comprising:

a holding unit configured to hold layered data and a corresponding ***absolute radio resource amount*** required for transmitting the layered data;
a determination unit configured to compare area resource information indicating a ***currently available absolute radio resource amount*** for respective radio areas covered by base stations with ***the absolute radio resource amount*** held in the holding unit, and to determine, from layered data of a highest layer, at least one layered data of which ***the absolute radio resource held in the holding unit satisfies the currently available absolute radio resource amount***; and

¹ E.g., specification, p. 12, ll. 9-31 and Fig. 4.

a radio transmitter configured to transmit the at least one layered data determined by the determination unit from the base station to the mobile stations.

Independent Claims 2, 6 and 12, while directed to alternative embodiments, recite similar features. Accordingly, the remarks and arguments presented below are applicable to each of independent Claims 1, 2, 6 and 12.

As described in an exemplary embodiment at Fig. 4 and p. 12, lines 9-31, the transmission data management unit 24 of the radio network controller 20 is capable of determining which layers of data should be sent to a base station 10 for subsequent transmission to a mobile station 30 based on ***absolute*** resource information corresponding to the radio area 40 served by the base station and stored ***absolute resource information*** 24a corresponding to the resources required for transmitting the layered data.

Turning to the applied reference, Hayama describes a radio communication system arranged to deliver multimedia information to plural mobile stations through the radio channels connected in a CDMA system.² Hayama's base station includes an interface for receiving a frames of prioritized layered information and an allocating device for allocating the frame received on the interface to a proper channel according to its transmission priority.³

More specifically, col. 12, l. 58-col. 13, l. 5 and Fig. 12A of Hayama describes that a base station apparatus 201 allocates available transmission power to each layered data at a rate according to a priority of each layered data. For example, when the transmission power at which the traffic channel containing the layer 1 information of the highest significance or priority is transmitted to the mobile station is relatively represented as 1, the transmission power at which the traffic channel containing the layer 2 information of lower significance or priority is represented as $\frac{1}{2}$. Thus, Hayama describes that available transmission power (e.g.,

² Hayama, col. 1, line 64 – col. 2, line 1.

³ Id., col. 2, lines 2-6.

a currently available resource amount), is relatively allocated to each layered data at a rate according to a priority of each layer of data.

Hayama, however, fails to teach or suggest “holding layered data and a corresponding **absolute radio resource amount** required for transmitting the layered data” and “**comparing** area resource information indicating **a currently available absolute radio resource amount** for respective radio areas covered by base stations **with the absolute radio resource amount held in the holding unit**, and to **determine**, from layered data of a highest layer, **at least one layered data of which the absolute radio resource held in the holding unit satisfies the currently available absolute radio resource amount**,” as recited in amended independent Claim 1.

Suppose, for example, a currently available absolute radio resources amount satisfies a radio resources amount required for transmitting only layered data A having the highest priority, but does not satisfy radio resources amounts required for transmitting both layered data A having the highest priority and layered data B having a priority lower than the layered data A.

In this case, in the present invention, the currently available absolute radio resources amount is absolutely allocated to only the layered data A having the highest priority and is not allocated to layered data B having the lower priority. On the other hand, in Hayama, the currently available absolute radio resources amount is relatively allocated to both of the layered data A and the layered data B, at a rate according to the priority.

Therefore, Hayama fails to teach or suggest “**determin[ing]**, from layered data of a highest layer, **at least one layered data of which the absolute radio resource held in the holding unit satisfies the currently available absolute radio resource amount**,” and transmitting the at least one layered data determined, along with the additional limitations recited in amended independent Claim 1.

Accordingly, Applicants respectfully request that the rejection of Claim 1 (and the claims that depend therefrom) under 35 U.S.C. §102 be withdrawn. For substantially similar reasons, it is also submitted that independent Claims 2, 6 and 12 (and the claims that depend therefrom) patentably define over Hayama.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-2, 5-6, 9 and 12-14 is patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of the application is therefore requested.

Respectfully submitted,

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